IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 18.08.2006

Coram

The Honourable Mr. JUSTICE K.MOHAN RAM

Civil Miscellaneous Appeal No.1019 of 1999
& C.M.P.No.12787 of 1999

Sundar Raj .... Appellant/Respondent

Vs.

Muthian ... Respondent/Petitioner

Appeal against the order and decreetal, dated 21.12.1998, passed by the Principal District Judge, Villupuram District, Villupuram made in Guardianship O.P.No.29 of 1996.

For Appellant : Mr. C.R.Krishnamoorthy
For Respondent : No Appearance.

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J U D G M E N T

Being aggrieved by the order dated 21.12.1998 passed in Guardianship O.P.No.29 of 1996 on the file of the Principal District Judge, Villupuram, whereby the respondent herein was appointed as the guardian for minors-Saraswathi Mari and Manjhumatha, the above appeal has been filed.

2. Though the respondent has been served, he has neither appeared in person nor through any counsel. When the case was called today, the respondent was not present in the Court.

3. The learned counsel for the appellant submitted that as per Exs.A-1 and A-2-Birth Certificates relating to Saraswathi Mari and Manjhumatha, the dates of birth are 31.07.1982 and 11.10.1984 respectively and therefore they have completed 21 years and attained majority, as prescribed under the provisions contained in the Guardians and Wards Act, 1890 (hereinafter referred to as "the Act"). The learned counsel for the appellant submitted that Section 41 of the Act deals with the procedure to be followed when the authority of the guardian ceases. As per Section 41 (1) (c), the powers of a guardian of the person ceased by the ward ceasing to be a minor; and as per Section 41 (2) (c), the power of a guardian of the property ceased by the ward ceasing to be a minor.

4. Section 41(3) of the Act reads as follows:

"41 (3) When for any cause the powers of a guardian cease, the Court may require him or, if he is dead, his representative to deliver as it directs any property in his possession or control belonging to the ward or any accounts

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in his possession or control relating to any past or present property of the ward".

Relying upon Section 41 (3) of the Act, the learned counsel for the appellant submitted that a direction may be passed by this Court requiring the respondent herein to deliver the properties in possession or control of the guardian which belong to the wards and also the respondent may be directed to deliver accounts relating to the properties belonging to the wards.

5. Since the minors as noticed from Exs.A-1 and A-2 have ceased to be minors, the powers of the guardian, namely, the respondent, has ceased in the light of the provisions contained in Sections 41 (1) (c) and 41 (2) (c) of the Act and therefore as rightly contended by the learned counsel for the appellant, the respondent herein is hereby directed to deliver all the properties belonging to the minors, which are in his possession or control. The respondent is also directed to deliver all accounts in his possession or control relating to the past and present property of the wards to the wards, within a period of four weeks from the date of receipt of a copy of this order.

6. With the above directions, the CMA is disposed of. No costs. Consequently, the connected CMP is closed.

srk

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1. The Principal District Judge,
Villupuram District, Villupuram

2. The Record Keeper,
VR Section, High Court, Madras.

ONE CC TO MR.C.R. KRISHNAMOORTHY, ADVOCATE SR 37291

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